

WATER COUNCIL MEETING

Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

December 13, 2006
9:00 a.m.

Members present: Councilors Bridges, Bradley, Butler, Cowan, Czysz, DiMarzio, Lyons, Rastaulis, Patenaude, and Varotsis

Members absent: Councilors Barrett, Densberger, Dupee, Lussier, Lynch, Phillips

John Bridges, Chairman, called the meeting to order at 9:00 a.m.

1. Introduction of Commissioner Thomas Burack.

Commissioner Burack, was introduced and gave a brief welcome.

At 9:03 a motion was made by Councilor Varotsis to go into closed session. The motion was seconded by Councilor Bradley. The Council unanimously voted to go into closed session.

At 9:40 a motion was made by Councilor Cowan to go out of closed session. The motion was seconded by Councilor Bradley. The Council unanimously voted to end the closed session.

2. Approval of Minutes of October 19, 2006 Meeting

A motion was made by Councilor Varotsis to accept the minutes of the October 19, 2006 meeting as presented. The motion was seconded by Councilor Bradley. The Council unanimously voted to approve the minutes.

3. Approval of State Aid Grants and Amendment

State Aid Grants

Steve Snell of the Wastewater Engineering Bureau requested approval of the State Grant Amendment to the city of Concord as set forth in a memo from Bureau Administrator John R. Bush, P.E. to Harry T. Stewart, P.E., Director, Water Division dated October 27, 2006.

Councilor Varotsis moved to approve the grant amendment and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Bradley seconded the motion and it was unanimously voted.

WHEREAS, The following municipality has applied to the Department of Environmental Services, under the provisions of RSA 486,III, for an amended grant in the amount listed, to aid in the defraying of the original costs resulting from the construction of facilities which will result in increased septage handling and/or treatment capacity, as defined in said Chapter:

| <u>MUNICIPALITY</u> | <u>PROJ. NO.</u> | <u>PROJECT DESCRIPTION</u> | <u>AMOUNT</u> |
|---------------------|------------------|--|---------------|
| Concord | C-700 | Sludge Dewatering and Stabilization Facility | \$1,598,680 |

WHEREAS, The Department of Environmental Services has examined the documentation submitted by the municipality as to the eligibility for the additional State Contribution in accordance with RSA 486:3,III. And finds that the City of Concord is eligible for an additional contribution of 26 percent (10% to meet the needs of the City of Concord plus 2% for meeting the septage disposal needs for each municipality that has a signed agreement with the city) on 28 percent of the eligible project costs as provided by this chapter: and

WHEREAS, The Water Council finds that said projects are intended to meet the septage disposal needs for each additional New Hampshire municipality pursuant to RSA 485-A:5-b; and

WHEREAS, the Department of Environmental Services has made a tentative offer of said grant amendment, subject to final approval and authorization by the governor and Executive Council: and

WHEREAS, the listed municipality has accepted the tentative offer; and

WHEREAS, based on the determination of eligibility for the additional State contribution, the State Aid Grant for this project has been recalculated and is greater than the grant amount originally approved by the Governor and Executive Council. The amended grant amount for the sludge dewatering and stabilization facility has been determined to be \$598,680 resulting in an additional State contribution of \$426,627. It should be noted that the present State grant in the amount of \$1,172,053 was approved by the Water Council on August 10, 2005 and by the Governor and executive council on September 21, 2005.

NOW THEREFORE, The Water Council finds that all of the provisions of RSA 486 have been met by said grantee, and respectfully recommends that the Governor and Executive Council approve said grant increase of \$426,627 and authorize payment thereof through the Department of Environmental Services as provided for in said Chapter.

4. Status of Appeals

Michael Sclafani distributed an Appeals Status Report and reviewed pending appeals with the council.

- **Docket No. 03-14 WC - Gerald A. Bell – Water Division Denial of Application for Waiver of Septage Rules**

Pending results of Declaratory Judgment in Merrimack Superior Court.

Stay remains in effect pending the resolution of the declaratory judgment action and no action is required by the Council.

- **Docket No. 04-05 WC - Appeal of Freudenberq-NOK General Partnership**
Trial on Petition for Declaratory Judgment in Grafton Superior Court has been continued and it appears that the order will be rendered moot and the appeal withdrawn by the end of the year.
- **Docket Nos. 04-18 WC and 04-19 WC – Appeal of Thaddeus Dymon and Town of Newport**
A stay remains in effect pending the resolution of a boundary line dispute in Sullivan County Superior Court. A final decision is expected soon.
- **Docket No. 05-21 WC - Appeal of Save Our Groundwater**
On its own initiative, the Council voted 10-0 at a previous meeting to table this appeal pending advice from legal counsel re: Jurisdiction & Standing. Council needs to decide status of this case (i.e., continue to table it, accept the appeal, dismiss the appeal, decline to accept the appeal, etc.).
- **Docket No. 05-22 WC - Appeal of Town of Nottingham**
On its own initiative, the Council previously voted 10-0 to table this appeal pending advice from legal counsel regarding Jurisdiction & Standing. Council needs to decide the status of this case (i.e., continue to table it, accept the appeal, dismiss the appeal, decline to accept the appeal, etc.)

Councilor Butler made a motion to table until next month both of the appeals: Docket No. 05-21 WC and 05-22 WC. Councilor Bradley seconded the motion. The Council voted unanimously to table both of these appeals.

- **Docket No. 06-04 WC - Appeal of Andrews and Carpenter**

On August 9, 2006 the Appeal hearing re-convened with Council deliberating following the hearing.

Written Decision and Order has not yet been issued.

- **Docket No. 06-08 WC – Conservation Law Foundation**
On September 18, 2006 a Pre-Hearing Conference was held and a Pre-Hearing Order subsequently issued. Appeal Hearing will take place on January 10, 2007 at 10 a.m.
- **Docket No. 06-13 WC – Administrative Order – Shane Forest**
On October 10, 2006 Appeal Accepted and Stayed.

Michael Sclafani directed to write a letter as to status of negotiations.

- **Docket No. 06-15 WC – Administrative Order – Andrew P. and Christine J. Lane**
On October 19, 2006 Notice of Appeal filed. Notice of Appeal is deficient, Appeals Clerk notifies appellant what is needed. Appeals Clear confirm that the Certified Mail packet was deliver on October 19, 2006.

On October 25, 2006 Appellant files a Motion to Accept Filing Mailed on October 17, 2006 as Timely. Deficiencies with original notice are filed.

October 31, 2006 Receipt of Appeal letter distributed.

Councilor Butler made a motion to accept the Notice of Appeal. Councilor Patenaude seconded the motion and the motion carried with Councilors Bradley and Lyons opposed.

Council Vice Chairman, F. Wayne Dimarzio was appointed as Hearings Officer.

5. Legislative Update by Director Harry Stewart

Director Stewart reported the current LSRs are on the website with bills to be filed when language has been drafted. There are currently 20 water-related LSRs relating to groundwater, state dams, and sewage.

6. State of Estuaries Report

Phil Trowbridge, Coastal Scientist, gave a report on New Hampshire's estuaries. The newest report, 2006 State of the Estuaries Report, is available online at www.nhep.unh.edu.

7. Other Business

Councilor Butler asked if there could be a presentation from the Concord Wastewater Treatment plant at the January 10th meeting.

8. Next Meeting

The next meeting is scheduled for January 10, 2007.

9. Adjournment

A motion was made by Councilor Patenaude to adjourn. The motion was seconded by Councilor Butler and unanimously voted.

The meeting adjourned at approximately 11:15 a.m.

